

Migrant domestic workers in the UK

Specific vulnerabilities to abuse & exploitation- are trafficking protections working for migrant domestic workers?

Introduction

Thank you to the IOM for inviting me to speak here. This workshop is of particular interest to us at Kalayaan, not least because I've learnt a great deal about the situation of migrant domestic workers in other countries but also because in the past few years, Kalayaan has noticed that the debate around trafficking has become louder and more intense. We have certainly found that an increasing amount of our time has been taken up with engaging in the debate. Kalayaan was established however as a workers' rights organisation, to address the exploitation and human rights abuses suffered by migrant domestic workers who very much consider themselves workers rather than victims of a trans-national crime and we are delighted to be involved in a workshop that will hopefully bring the debate and the discourse back to what has always been at the heart of the problem for migrant domestic workers – a combination of a specific migration status and unregulated, hidden working environment that exacerbates vulnerability to exploitation and abuse.

These issues are what I hope to talk about today; the specific vulnerabilities of migrant domestic workers to abuse; the types and level of abuse and exploitation that they suffer; the extent to which protections for trafficked persons address these vulnerabilities; and of course, what more must be done in the future and the practical solutions that will improve the situation for migrant domestic workers.

Background

To give you a little history, because it will hopefully be both of interest and provide some context to the current situation for migrant domestic workers in the UK, Kalayaan was established in the UK in 1987 by a group of domestic workers who had become undocumented through fleeing an abusive employer. Initially the workers helped each other by providing emergency accommodation and social support but they realised that nothing would change for domestic workers until they could escape an abusive or exploitative employer and access justice through the police without the fear of deportation. Since these domestic workers were already undocumented they could not campaign directly to government themselves so they established Kalayaan as their campaigning front organisation.

After ten years of campaigning, these domestic workers together with Kalayaan and the Unions, achieved success an independent visa status, and crucially the right to change employer was granted to migrant domestic workers, meaning they could escape abuse, continue to work and access justice without fear.

Situation today

And this is broadly where we are today. Domestic workers, in spite of the independent visa status are extremely vulnerable to exploitation and abuse. Domestic work is isolated within the private home, hidden from the outside world and from the oversight of regulatory bodies. Domestic workers are reliant on one employer for their work, and the money they send home, as well as for their accommodation. *Migrant*

domestic workers, in addition to this, are reliant on their employers for their immigration status as well, because although they have a visa independent of their employer, they must still prove they are in work to remain in the UK and extend their visas. Further most migrant domestic workers do not speak English or understand how to navigate the UK's administrative and justice systems and are reliant on their employers for any information about their rights in the UK.

This toxic combination often leads to abuse and exploitation and migrant domestic workers find themselves facing the choice of continuing to suffer abuse or fleeing into destitution and homelessness and, some are led to believe by their employers, arrest and deportation.

Kalayaan has, year after year, documented the appalling conditions of abuse, exploitation and controlling measures that some domestic workers suffer.

Between 1 April 2008 and 31 March 2009 Kalayaan registered 340 new migrant domestic workers, of these workers:

- 17% reported they had been physically abused and 58% reported they had been psychologically abused such as having been called names, and threatened
- 6% reported that they had been sexually abused. We fear this is a significant underestimate of the problem, given that these figures are taken the first time we meet someone and given the stigma attached to having suffered such abuse in many countries

In terms of exploitation:

- Half of the 340 migrant domestic workers were working more than 16 hours a day and 61% had no day off at all during the week
- 43% had no private space in the house, sleeping in a child's room or on the floor in a living area, with two thirds of all workers reporting they were 'on call' throughout the night

To give you an idea of the type of controlling measures employers use to prevent domestic workers from arguing for their rights: In addition to threats of denunciation to the authorities and against their families:

- 57% of domestic workers visiting Kalayaan had their passports withheld from them by their employers
- Half were not allowed out without their employers accompanying them

So, whilst the visa does offer vital protections to migrant domestic workers in the UK, it is clear that there is still more to be done.

Trafficking

So, how have the protections associated with trafficking legislation worked to help domestic workers?

Whilst Kalayaan has long campaigned for better protections for migrant domestic workers, previously we have not framed the issue as a problem of trafficking but one of the abuse and exploitation of migrants that comes from a specific set of circumstances to which I have referred above.

We have however, increasingly found ourselves drawn into the debate around how to best protect trafficked persons. We have recognised that it is in domestic workers interests for the authorities to frame their experiences as trafficking because of the associated protections that this may confer on them.

We also understand that there is now widespread recognition among Governments that trafficking must be prevented, and in 2006 when the UK Government proposed to remove the rights associated with the migrant domestic worker visa, including the right to change employer, it was useful to be able to draw attention to the fact that these rights are one of the most important ways in which the Government can prevent trafficking, or at the very least, provide a viable escape route for its victims.

Main achievements

There have been some important achievements in the UK for migrant domestic workers. In April 2009, the UK's commitments under The Council of Europe Convention on Action Against Trafficking came into force in the UK. Since this date, Kalayaan has referred eight migrant domestic workers who we have identified as trafficked and who wished to be referred, to the UK's National Referral Mechanism. These individuals have received support and, where they requested it, accommodation. This is a big step forward in terms of the protection and support available to migrant domestic workers.

Another important achievement is that since autumn 2008, an inter-ministerial 'steering group' on domestic workers has been established and meets together with Kalayaan and Unite the Union regularly. This is a useful channel for Kalayaan to raise issues relating to the protection of domestic workers at a policy level.

Ongoing challenges

There are, of course, ongoing challenges for the protection of migrant domestic workers. There are a number of ways in which the system to protect trafficked persons just does not work for migrant domestic workers. For instance:

- Pressure to support their families is what has compelled individuals to migrate into this dangerous work in the first place. Where migrant domestic workers have ended up with an irregular immigration status, often through no fault of their own, because for instance their employer allows their visa to expire as a method of control, they will not come forward to be identified and receive protection and support if there are not adequate avenues for regularising their immigration status and continuing to work. At Kalayaan we have already had two very vulnerable individuals choose not to be referred for protection for this reason.
- Another related issue is that trafficking is still, as I believe was discussed in yesterdays sessions, treated as a criminal justice issue or a migration problem. For instance, it is the UK Borders Agency caseowners who are decision makers in trafficking cases. At Kalayaan we are also disturbed that the current policy of the UKBA is that individuals must be interviewed about their immigration status before they can be granted a reflection period. For traumatised individuals, the reflection period is vital and should not be impinged upon by migration issues.

There are also of course many migrant domestic workers have experienced similar levels of abuse but do not fit the legal definition of a victim of trafficking. These women (and men) may have similar levels of

need as migrant domestic workers who have been trafficked to the UK but there is little support available for these vulnerable workers.

Practical measures for the future

In terms of practical measures for the future, there are a few key changes nationally and internationally that Kalayaan would like to see.

Firstly, I should say that we at Kalayaan will continue working to try and remove some of the barriers to domestic workers accessing their rights.

- As well as feeding into the inter-ministerial group. We are training the housing providers and working in partnership with them to support migrant domestic workers.
- Having recognised that there are numerous barriers both legal and practical to domestic workers accessing justice and compensation, Kalayaan has established a two year project helping domestic workers to get their cases through to employment tribunal. We hope that as well as helping individual domestic workers this project will highlight exactly what the barriers are so that we can work with Government and other authorities to tackle these. It should also build a body of legally accepted evidence about the treatment of domestic workers.

This project is however time limited, and of course in the long run, it is unsustainable. We need support from the UK Government and internationally in order to safeguard domestic workers from trafficking, abuse and exploitation.

In the UK, Government needs to commit to maintaining the overseas domestic worker visa and the vital protections it confers, beyond the current 2011 guarantee and needs to work to ensure that these workers are able to access the protections to which they are in theory entitled. Also, given that Kalayaan's statistics show that domestic workers who come with diplomats experience the same levels of abuse and exploitation as those who come to the UK with private families. These domestic workers need to be afforded the same right to change employer and escape abuse, a protection that they do not currently enjoy.

Importantly, the protection of domestic workers *is* on the international agenda and this is a crucial point in time at which states can act on this issue. The International Labour Organisation are currently receiving responses to their Law and Practice report on 'decent work for domestic workers' ahead of a conference on standard setting for this issue. Kalayaan call on all member states to seize the opportunity to ensure protection to some of the most vulnerable migrant workers and potentially prevent some of the worst instances of trafficking for forced labour.